

CITY COUNCIL AGENDA

JANUARY 15, 2008

AMENDED AGENDA

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
DAVID D CORTESE, VICE MAYOR
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**

9:30 a.m. - Closed Session, Call to Order in Council Chambers
Adjourn to Closed Session in Council Chambers Conference Room, W133
[See Separate Agenda](#)
1:30 p.m. - Regular Session, Council Chambers, City Hall

- **Invocation (District 1)**
- **Pledge of Allegiance**
- **Orders of the Day**

Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

- * **ADJOURNMENT:** This meeting will be adjourned in memory of Carlos Sousa, who was tragically killed by the Siberian tiger that escaped its enclosure at the San Francisco Zoo on Christmas Day. (Campos)

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1** Presentation of a proclamation declaring January 20 through January 26, 2008 as Future City Week in the City of San José. (Williams/Chu)
 - * (Rules Committee referral 1/9/08)

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

2.1 Approval of Minutes.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28228 – Adopting the Twenty-Third Amended Alum Rock Avenue Redevelopment Plan to include Fire Station #2 as a specific project; and making certain findings.

2.3 [Report on bids for the Fire Main Replacement Project at the Plant. Supplemental](#)

Recommendation: Report on bids and award of construction contract for Fire Main Replacement Project – Phase I to the low bidder, D&D Pipelines Inc., in the amount of \$292,550, and approval of a contingency in the amount of \$30,000. CEQA: Exempt, File No. PP07-144. (Environmental Services)
(Deferred from 12/18/07 – Item 2.9)

2.4 [Request for an excused absence for Mayor Reed.](#)

Recommendation: Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on December 12, 2007 due to Authorized City Business: Trip to Sacramento, CA for a meeting with the Governor. (Mayor)
(Rules in-Lieu referral 01/02/08)

2.5 [Repair and modifications at the Plant's Environmental Services Building. Supplemental](#)

Recommendation: Approval of the first amendment to the agreement with Allana Buick & Bers, Inc. for professional services related to the repair and modifications of the San José/Santa Clara Water Pollution Control Plant's Environmental Services Building, modifying the scope of services and increasing the compensation by \$276,695 for a total maximum amount not to exceed \$587,495; and extending the term of the agreement by twenty-four months from July 31, 2008 to July 31, 2010. CEQA: Not a Project. (Public Works/Environmental Services)
(Deferred from 12/18/07 – Item 2.22)

2. CONSENT CALENDAR

2.6 [Construction Contract Change Order #1 for the Villa Vista Reservoir Rehabilitation Project.](#)

Recommendation:

- (a) Approval of Contract Change Order #1 for reservoir structural repair and a contract time extension of 17 working days with Olympus & Associates, Inc., for the Villa Vista Reservoir Rehabilitation project, at an additional cost of \$51,727 to the City.
- (b) Adopt the following Appropriation Ordinance amendments in the Water Utility Capital Fund (500):
 - (1) Increase the Villa Vista Reservoir Rehabilitation appropriation in the amount of \$77,000; and
 - (2) Decrease the Forestwood Drive Main Replacement appropriation in the amount of \$77,000.

CEQA: Exempt, File No. PP07-148. Council District 8. (Environmental Services/City Manager's Office)

2.7 [Vacation of a portion of a public right-of-way at the southeast corner of North King Road and Mabury Road.](#)

Recommendation: Adoption of a resolution summarily vacating a portion of public right-of-way at the southeast corner of North King Road and Mabury Road (796 North King Road), recorded March 25, 1993 in Book M683, Page 1280 of Official Records, Office of the Recorder, County of Santa Clara, and reserving a public service easement over the entire area being vacated. CEQA: Exempt, File No. H04-047. Council District 5. (Public Works)

2.8 [2008 Retiree Health Care.](#) [Memo from FCERS Retirement Board](#) [Memo from Police and Fire Retirement Board](#)

Recommendation: Approval of [an ordinance](#) to provide that the lowest cost medical plan for purposes of determining the portion of the medical insurance premiums to be paid from the Federated City Employees Retirement System and the Police and Fire Department Retirement Plan for retirees and their beneficiaries, from January 1, 2008, through December 31, 2008, is the Kaiser Plan (single or family coverage) that does not include the new co-payments, and making the ordinance retroactive to January 1, 2008. (City Attorney's Office)

* (Rules Committee referral 1/9/08)

2. CONSENT CALENDAR

2.9 Excused absences for Councilmember Constant.

Recommendation: Request for excused absences for Councilmember Constant from the Regular Meetings of the Rules and Open Government Committee on the following dates due to Authorized City Business: LAFCO Meetings:

- (a) January 9, 2008
- (b) February 6, 2008
- (c) March 5, 2008
- (d) April 16, 2008
- (e) May 7, 2008
- (f) June 4, 2008
- (g) July 2, 2008
- (h) August 6, 2008
- (i) October 1, 2008
- (j) December 3, 2008

(Constant)

* (Rules Committee referral 1/9/08)

2.10 Request for an excused absence for Vice Mayor Cortese.

Recommendation: Request for an excused absence for Vice Mayor Cortese from the Closed Session on January 8, 2008 due to Authorized City Business: Realtors Meeting in San José, CA. (Cortese)

* (Rules Committee referral 1/9/08)

2.11 Request for an excused absence for Councilmember Liccardo.

Recommendation: Request for an excused absence for Councilmember Liccardo from the Closed Session on January 8, 2008 due to unavoidable flight delay in return from travel. (Liccardo)

* (Rules Committee referral 1/9/08)

3. STRATEGIC SUPPORT SERVICES

- **Report of the City Manager, Debra Figone ***

3.1 **Report of the Rules and Open Government Committee Mayor Reed, Chair – *No Report***

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Public Safety, Finance and Strategic Support Committee – December 20, 2007

Councilmember Nguyen, Chair

- (a) Audit of the Management of the City's Tax-Exempt Bond Program and Use of Interfund Loans to Provide Financing for Capital Bond Projects. (Auditor/ Finance/City Attorney)
- (b) External Auditor's Reports: Single Audit Reports for San Jose Convention and Cultural Facilities and Hayes Mansion Conference Center for the Year Ended June 30, 2007 and Reports to the Public Safety, Finance and Strategic Support Committee, Fiscal Year Ended June 30, 2007. (Finance)

Deferred from November 15

- (c) Redevelopment Agency Monthly Financial Reports. (Redevelopment Agency)
 - (1) Financial Statements
 - (2) Capital Cost Report
 - (3) Cash Flow Projections
- (d) Bi-Monthly Financial Report for September/October 2007. (Budget)
- (e) Report on the 2007-08 First Quarter Revenue Collection Strategic Plan Report. (Finance)

Deferred from November 15

- (f) Semi-Annual Recommendation Follow-up Report on all Outstanding Audit Recommendations for the Six Months Ending June 30, 2007. (Auditor)
- (g) Review of Plans for Heart Safe City Classification. (Fire)

Request Deferral to January 2008

- (h) Quarterly Update on Performance Measurements. (City Manager)

Request Deferral to January 2008

- (i) Quarterly Update on Council Directives. (City Manager)

Request Deferral to January 2008

- (j) Review of Fire Department 2000 Strategic Plan and Update. (Fire)

Request Deferral to January 2008

- (k) Report on Recruitment, Diversity Management and Workforce Planning. (Human Resources)

Request Deferral to January 2008

- (l) Report on Department Business Technologies. (Information Technology)
 - (1) Integrated Billing System (IBS)
 - (2) Recruiting
 - (3) Financial Management System (FMS) Upgrade

Request Deferral to January 2008

- (m) Report on City Service Area (CSA) Activities. (Information Technology)
 - (1) Public Safety
 - (2) Parks, Recreation, Neighborhood Services (PRNS) Registration

Request Deferral to January 2008

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Public Safety, Finance and Strategic Support Committee – December 20, 2007 (Cont'd.)

- (n) Report on Citywide Business Technology. (Information Technology)
 - (1) Application Management and Data Automation (AMANDA) Expansion
Deferred from November 15
Request Deferral to April 2008

- (o) Oral Petitions

- (p) Adjournment

* (Deferred from 1/8/08 – Item 3.2)

3.3 Proposed Amendments to City Charter and Municipal Code.

* **Recommendation:**

- (a) Direction to the City Attorney to prepare an amendment to the City Charter to allow the City Council by majority vote to place Council Appointees on administrative leave for placement on the June 2008 Ballot.
- (b) Discussion of the California Elections Code recall process which allows voters to recall an official and elect his or her successor by a plurality vote in the same election, and direction to the City Attorney to prepare amendments to the Charter if the Council approves changes to the City of San Jose recall process consistent with the California Elections Code.
- (c) Discussion and direction on when to require a Member of the Council to abstain from participating in and voting on a matter before the City Council if to participate in the particular matter would create an appearance of bias.
- (d) Discussion of alternate City Council salary setting methods and direction to the City Attorney to prepare a Charter amendment if a change to the current method is approved.

(City Attorney)

* **RECOMMEND DEFERRAL TO 3/4/08 PER ADMINISTRATION**

3.4 Council Policy on Labor Negotiation Guidelines.

Memo from Mayor Chuck Reed

Letter from the Assoc. of Building, Mechanical & Electrical Inspectors of the City of SJ

Recommendation: Adoption of a resolution approving a City Council Policy on Labor Negotiation Guidelines. CEQA: Not a Project. (City Manager's Office)

3.5 Public Hearing for the approval of the report of the Director of Finance on the cost of sidewalk repair liens.

Recommendation: Adoption of a resolution approving the Report of the Director of Finance on the Reimbursement of Cost for Sidewalk Repairs, confirming the assessments contained in the Report and directing the recording of liens on the property tax roll for the cost of sidewalk repairs. CEQA: Not a Project. (Finance)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee Councilmember Pyle, Chair – *No Report*

4.2 Public Hearing on 2007-2008 Weed Abatement Report.

Recommendation: Adoption of a resolution:

- (a) Overruling any and all objections to the 2007-2008 Hazardous Vegetation Commencement Report; and
- (b) Directing the Santa Clara County Department of Agriculture and Resource Management to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Exempt, File No. PP06-196. (Planning, Building and Code Enforcement)

4.3 Bid for the Santa Teresa Branch Library Project.

Recommendation:

- (a) Consent to the request of Farotte Construction, Inc. to be relieved of its low bid for the Santa Teresa Branch Library Project based upon a mistake in filling out the bid.
- (b) Report on bids and award of contract for the Santa Teresa Branch Library Project to the lowest responsive bidder, BRCO Constructors, Inc., for the base bid and Add Alternates Nos. 1 through 6 in the total amount of \$8,876,000, and approval of a contingency in the amount of \$887,600.

CEQA: Exempt, File No. PP07-099. Council District: 2. (Public Works/Library)

4.4 Public Hearing on Delmas/Park Underground Utility District.

Recommendation: Conduct a Public Hearing and approval of an ordinance to establish a combination Rule 20A and In-Lieu Fee (Rule 20B) Underground Utility District along Delmas Avenue from Santa Clara Street to Auzerais Avenue, Cahill Street from San Fernando Street to Santa Clara Street, San Fernando Street from Highway 87 to Cahill Street, Laurel Grove Lane from Cahill Light Rail Station to Bush Street, Cahill Park from Bush Street to Wilson Avenue, San Fernando Street from Wilson Avenue to 80 feet west of Wilson Street, Park Avenue from Highway 87 to Montgomery Street, and Auzerais Avenue from Bird Avenue to Highway 87. CEQA: Exempt, File No. PP07-218. Council District 3. (Public Works)

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee – [December 13, 2007](#) Councilmember Chirco, Chair

- (a) Animal Care and Services Bi-annual Report. (Parks, Recreation and Neighborhood Services)
- (b) Youth Commission Update. (Parks, Recreation and Neighborhood Services)
- (c) HNVF Report on Migration to Results-Based Accountability. (Parks, Recreation and Neighborhood Services)

Deferred from November 2007

- (d) Report on Project Blossom. (Planning, Building and Code Enforcement)
- (e) Report on the Mobile Home Park Infrastructure Program. (Housing)
- (j) Oral Petitions
- (k) Adjournment
- (f) Strong Neighborhoods Monthly Update. (City Manager's Office)
 - (1) Pilot Areas Update. (Verbal Report)
- (g) Schools/City Collaborative Monthly Update. (City Manager's Office/ Neighborhood Services CSA)
 - (1) Reports from School Safety, Joint User, and Teacher Recruitment/ Retention Subcommittees.
- (h) Quarterly Report on Performance Measurements.

Request Deferral to February 2008

- (i) Quarterly Update on Council Directives.

* (Deferred from 1/8/08 – Item 5.1)

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee Councilmember Williams, Chair – *No Report*

6.2 [Downtown Property and Business Improvement District.](#) [Supplemental](#)

Recommendation: Approval of an agreement with the San José Downtown Property Owners Association and the San José Downtown Association to provide services for the Downtown Property and Business Improvement District as specified in the agreement and as outlined in the Downtown Property and Business Improvement District Management Plan/Engineer's Report. CEQA: Not a Project. (Transportation)

* (Deferred from 1/8/08 – Item 6.3)

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- Notice of City Engineer's Pending Decision on Final Maps

- Notice of City Engineer's Award of Construction Projects

In accordance with Council Resolution No. 73532, the construction Contract Process Streamlining Policy approved on December 5, 2006, the following is a list of projects that were awarded or rejected by the Director of Public Works in December 2007:

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Gateway East SNI Area Sanitary Sewer Improvements Phase II	5	K. J. Woods Construction, Inc.	\$414,000	12/13/07
Alviso and Biebrach Pools Rehabilitation Project	3 & 4	D. L. Falk Construction, Inc.	\$879,000	12/14/07
Traffic Signal Unit 2006	3	San José Signal Electric Construction, Inc.	\$385,000	12/19/07
Berryessa Creek Park Playground Renovation	4	Blossom Valley Construction, Inc.	\$508,142	12/20/07
Theodore Lenzen Park Improvement Project	6	Suarez & Munoz Construction, Inc.	\$539,718	12/20/07

- Open Forum

- Adjournment

* This meeting will be adjourned in memory of Carlos Sousa, who was tragically killed by the Siberian tiger that escaped its enclosure at the San Francisco Zoo on Christmas Day. (Campos)

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.